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Blair Levin
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: In the Matter of A National Broadband Plan for Our Future, GN Docket No. 09-51

Dear Mr. Levin:

As you consider your final policy recommendations for inclusion in the National Broadband Plan, we write to ask that you include a reaffirmation in the Plan, or, alternatively, recommend to Congress that it pass legislation that would clarify once and for all that all Internet Protocol (“IP”)-based services are subject to exclusive federal jurisdiction.

The FCC has already preempted state regulation of Voice over IP (“VoIP”), in the 2004 *Vonage Order*. Although in that case the Commission was specifically presented with a state attempt to regulate a nomadic VoIP service, the Commission made clear that its conclusions about the interstate jurisdiction of VoIP services applied equally to cable companies and other facilities-based providers of so-called fixed VoIP services.

Nevertheless, some have insisted that the states retain the authority to regulate VoIP entry, rates, and other terms and conditions. This has led to destabilizing, industry-wide confusion that hampers broadband investment and delays innovation. To put this behind us, the Commission should either reaffirm in the National Broadband Plan or support legislation that removes any lingering doubt that VoIP – and all IP-enabled services – are subject to exclusive federal jurisdiction. Re-affirming exclusive federal jurisdiction over IP based services – regardless of technology or provider – would further the national focus on policies to spur continued evolution to more advanced IP and broadband networks, and foster continued development and deployment of new and innovative IP services, as well as of the broadband platforms on which those services depend.

IP-based technologies and services are the fastest growing segment of the communications industry and one of vital importance. Industry is investing more than ever in new, next-generation platforms based on IP technology. These revolutionary IP services, including VoIP, upend traditional concepts of location and/or device based services, enabling customers to have a single number that reaches them no matter where they are and what device (phone or computer) they are using. These IP services are designed and built over wide geographic areas without regard to state boundaries. A nationalized approach to IP deployment allows networks to be deployed with common systems, platforms, and processes, and results in efficiencies that provide considerable cost savings for consumers.



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Consumers and businesses are eagerly embracing the new and innovative integrated packages of data, features, and any-distance voice services that IP services make possible. As a result, an ever-increasing proportion of voice traffic will originate or terminate in IP format and on IP networks. The continuing evolution of IP-based services will create a more competitive environment and will bring new and innovative broadband services to consumers in all areas of the country. For this trend to continue, Congress must ensure that these inherently interstate services are regulated exclusively at the federal level, and reject efforts to apply legacy state telecommunication regulation to the IP world. Absent a reaffirmation of exclusive federal jurisdiction or Congressional action to confirm exclusive federal jurisdiction, IP services will be subject to a patchwork of different regulatory regimes, stifling innovation and the industry's ability to take full advantage of available cost savings. A broad coalition of industry partners advised the Chairs and Ranking Members of the Congressional oversight committees in November 2009 of the need for exclusive federal jurisdiction over these services. Your endorsement of this pro-innovation policy would further enforce the importance of declaring exclusive jurisdiction over IP enabled services.

We therefore urge you to include as part of the National Broadband Plan an affirmation that IP-enabled services are exclusively interstate, or a recommendation to Congress to pass legislation confirming exclusive federal jurisdiction over IP enabled services.

Respectfully submitted,

Joshua Lamel
Senior Vice President, Commercial Policy
TechAmerica